P.R. No. 219/06
Presented by Shri A.P. Agrawal
dated 01/02/06

Single Bench CA 152

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

(CC)

M.A.NO. 04 / 2006

Appellant : (Non – Applicant No.4) (Claiment)
Hari Shankar Pandey
S/o Late Hriday Narayan Pandey,
Aged about 40 years
R/o Near Laxmi Narayan Pond,
Supela, Dist : Durg-(C.G.)
---Father of the Deceased---

Versus

Respondents : (Claimant)

1. Smt. Raj Kumari Pandey
W/o Hari Shankar Pandey,
Aged about 38 years,
R/o House No.15/5,
Vasundhara Nagar,
Bhilai-3, Dist : Durg-(C.G.)
Present address : Mishra Bhawan,
Kohka Road, Bhilai.
---Mother of the Deceased---

Non Applicant No.1 (Non-Applicants)

2. Anant Kumar Dewangan,
S/o Shri D.R.Dewangan
Aged about – Not Known
R/o Qr.No.121/D, Risali Sector, Bhilai
P.S. – Navai, Dist : Durg-(C.G.)
---Owner of the Vehicle---

Non-Applicant No.2

3. Umesh Kumar Verma,
S/o Shri G.P. Verma,
Aged about – Not known,
R/o Qr.No.80/D, Risali Sector, Bhilai,
P.S. – Navai, Dist : Durg-(C.G.)
---Driver of the Vehicle---

Non-Applicant No.3

4. The New India Assurance Company Limited,
Registered and Head Office : 87,
M.G.Road, Fort, Mumbai,
Divisional Office : Bhilai,
Through - The Branch Manager,
The New India Assurance Company Limited, Prakash Bhawan, Station Road, Durg-(C.G.)
---Insurer of the Vehicle---

MISC. APPEAL U/S 173 OF THE MOTOR VEHICLES ACT.

HEAD Abbe. Vehicle

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HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) No. 04 of 2006

Hari Shankar Pandey

Vs.

Smt. Raj Kumari Pandey & three others

Post for Order: 5.12.2006

Sd/-
Dilip Raosaheb Deshmukh
Judge

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HIGH COURT OF CHHATTISGARH BILASPUR

MISC. APPEAL (C) No. 04/2006

Single Bench : Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Hari Shankar Pandey

Versus

Smt. Raj Kumari Pandey & three others

Shri Hanuman Prasad Agrawal, Counsel for the appellant.

O R D E R

(Passed on 5 .12.2006)

In a case of accidental death of Kum.Chetana Pandey, aged about 16 years, upon an application filed by the mother-Smt. Raj Kumari Pandey under Section 166 of the Motor Vehicles Act, the learned Motor Accidents Claims Tribunal, Durg allowed the father Hari Shankar Pandey, the appellant herein to be added as a non-applicant. However, while considering an application under Section 140 of the Motor Vehicles Act, the learned M.A.C.T. awarded the entire amount of Rs.50,000/- payable under the principle of 'no fault liability' only to the mother to the exclusion of the appellant herein. Hence, this Miscellaneous Appeal.

2. The respondent/claimant Smt. Raj Kumari Pandey and the owner, driver and the insurer of the vehicle which caused the accident have remained absent in this appeal despite service of notice upon them.

3. It is not disputed that the appellant herein is the father of the deceased. As her legal representative, the appellant is also entitled to compensation under Section 166 of the Motor Vehicles Act. The learned M.A.C.T. awarded the entire amount of Rs.50,000/- as compensation under 'no fault liability' only to the claimant mother-Smt. Raj Kumari Pandey on the ground that she was the legal representative of the deceased. Apparently, the impugned order is contrary to law since the appellant, being the father of the deceased was also entitled to an equal share in the compensation.

4. In the result, this Miscellaneous Appeal succeeds. It is ordered that the amount of Rs.50,000/- payable under Section 140 of the Motor Vehicles Act as compensation under 'no fault liability' shall be apportioned equally between the claimant-Smt. Raj Kumari Pandey and Hari Shankar Pandey, the appellant herein.

5. With the aforesaid direction, this M.A. stands disposed of. Consequently, M.C.P.No.1339 of 2006 for stay also stands disposed of.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani